

REMARKS

Claims 1-33 are pending. No amendments have been made by way of the present submission, thus, no new matter has been added.

In the outstanding Office Action the Examiner has required Applicants to elect one of the following groups pursuant to 35 U.S.C. § 121:

Group I, claims 1, 10, 15, 23 and 29, drawn to a wild type DYXC1 nucleic acid comprising SEQ ID NO: 1 and nucleic acid comprising polymorphisms;

Group II, claims 11-14 and 26-27, drawn to methods for the diagnosis of a SNP in DYXC1 gene (note that this group is subject to a further restriction to a particular SNP/group SNPs);

Group III, claims 16-17 and 30, drawn to a polypeptide;

Group IV, claims 18-21 and 24 draw to an antibody;

Group V, claims 31-32, drawn to a method of identifying a compound that modulates expression of activity of DYXC1; and

Group VI, claim 33, drawn to a method for affinity purification of a substance that binds to DYXC1.

Applicants respectfully traverse. Applicants respectfully submit that there exists no undue burden upon the Examiner to search and consider all claims in their entirety. Thus, Applicants submit that the outstanding Restriction Requirement is improper.

However, in an effort to be fully responsive to the Restriction Requirement, Applicants hereby elect Group I, directed to claims 1, 10, 15, 23 and 29 directed to a wild type DYXC1

nucleic acid comprising SEQ ID NO: 1 and nucleic acid comprising polymorphisms. As indicated above, Applicants submit that this submission is made with traverse.

Further, Applicants hereby reserve the right to request rejoinder of any withdrawn process claims which depend or otherwise include all limitations of an allowable product claim, such allowable product claim falling within the scope of elected Group I.


If the Examiner has any questions or comments, please contact Craig A. McRobbie, Reg. No. 42,874 at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: June 22, 2005

Respectfully submitted,

By  #42.874  
Gerald M. Murphy, Jr.  
Registration No.: 28,977  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Rd  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant